

THE REVISED SCHOOL CODE (EXCERPT)
Act 451 of 1976

PART 22

SCHOOL PERSONNEL CERTIFICATES AND PERMITS

380.1531 Requirements for issuing licenses and certificates for teachers and endorsements as qualified counselors and teachers of foreign languages in elementary grades; development, selection, and use of basic skills examination, subject area examination, and elementary certification examination; reading credit requirements; fees; teaching certificate from another state; definitions; rules; issuing continuing education certificate.

Sec. 1531. (1) Except as provided in this act, the superintendent of public instruction shall determine the requirements for and issue all licenses and certificates for teachers, including preprimary teachers, and the requirements for an endorsement of teachers as qualified counselors and an endorsement of teachers for teaching a foreign language in an elementary grade in the public schools of the state.

(2) Except as otherwise provided in this act, the superintendent of public instruction shall only issue a teaching certificate to a person who has passed appropriate examinations as follows:

(a) For a secondary level teaching certificate, has passed both the basic skills examination and the appropriate available subject area examination for each subject area in which he or she applies to be certified.

(b) For an elementary level teaching certificate, has passed the basic skills examination and, if it is available, the elementary certification examination, and has passed the appropriate available subject area examination for each subject area, if any, in which he or she applies to be certified.

(3) Except as otherwise provided in this act, the superintendent of public instruction shall issue a Michigan teaching certificate to a person holding a certificate from another state or a teaching degree from an out-of-state teacher preparation institution who applies for a Michigan teaching certificate only if the person passes appropriate examinations as follows:

(a) For a secondary level teaching certificate, pass both the basic skills examination and the appropriate available subject area examination for each subject area in which he or she applies to be certified. The superintendent of public instruction may accept passage of an equivalent examination approved by the superintendent of public instruction to meet 1 or both of these requirements.

(b) For an elementary level teaching certificate, pass the basic skills examination and, if it is available, the elementary certification examination, and pass the appropriate available subject area examination for each subject area, if any, in which he or she applies to be certified. The superintendent of public instruction may accept passage of an equivalent examination approved by the superintendent of public instruction to meet 1 or more of these requirements.

(4) Except as otherwise provided in this act, the superintendent of public instruction shall only issue a teaching certificate to a person who has met the elementary or secondary, as applicable, reading credit requirements established under superintendent of public instruction rule. If a person holds a teaching certificate, then beginning July 1, 2009, notwithstanding any rule to the contrary, the superintendent of public instruction shall not advance the person's certification to professional certification unless the person has successfully completed at least a 3-credit course of study with appropriate field experiences in the diagnosis and remediation of reading disabilities and differentiated instruction. To meet this requirement, the course of study should include the following elements, as determined by the department to be appropriate for the person's certification level and endorsements: interest inventories, English language learning screening, visual and auditory discrimination tools, language expression and processing screening, phonemics, phonics, vocabulary, fluency, comprehension, spelling and writing assessment tools, and instructional strategies. A person may complete the course of study either as part of his or her teacher preparation program or during the first 6 years of his or her employment in classroom teaching.

(5) Not later than January 11, 2002, the superintendent of public instruction, in cooperation with appropriate curriculum specialists and teacher educators, shall revise existing reading standards to recognize reading disorders and to enable teachers to make referrals for instruction and support for pupils with reading disorders.

(6) Subject to subsection (8), if a person holding a teaching certificate from another state applies to the superintendent of public instruction for a Michigan teaching certificate and meets the requirements of this subsection, the superintendent of public instruction shall issue to the person a Michigan professional education teaching certificate and applicable endorsements comparable to those the person holds in the other state, without requiring the person to pass a basic skills examination or the applicable subject area examination otherwise required under subsection (2) or (3). To be eligible to receive a Michigan professional

education teaching certificate under this subsection, a person shall provide evidence satisfactory to the department that he or she meets all of the following requirements:

(a) Has taught successfully for at least 3 years in a position for which the person's teaching certification from the other state was valid.

(b) Has earned, after his or her initial certification in another state, at least 18 semester credit hours in a planned course of study at an institution of higher education approved by the superintendent of public instruction or has earned, at any time, a master's or doctoral degree approved by the superintendent of public instruction.

(c) Has met the elementary or secondary, as applicable, reading credit requirement established under superintendent of public instruction rule.

(7) A person who receives a teaching certificate and endorsement or endorsements under subsection (6) is eligible to receive 1 or more additional endorsements comparable to endorsements the person holds in another state only if the person passes the appropriate subject area examinations required under subsection (2) or (3).

(8) The superintendent of public instruction shall deny a Michigan teaching certificate to a person described in subsection (6) for fraud, material misrepresentation, or concealment in the person's application for a certificate or for a conviction for which a person's teaching certificate may be revoked under section 1535a.

(9) The department, based upon criteria recommended pursuant to subsection (11), shall provide to approved teacher education institutions guidelines and criteria approved by the superintendent of public instruction for use in the development or selection of a basic skills examination and approved guidelines and criteria for use in the development or selection of subject area examinations.

(10) For the purposes of this section, the superintendent of public instruction, based upon criteria recommended pursuant to subsection (11), shall develop, select, or develop and select 1 or more basic skills examinations and subject area examinations. In addition, the superintendent of public instruction, based upon criteria recommended pursuant to subsection (11), shall approve an elementary certification examination and a reading subject area examination. If the department develops for use under this subsection an examination that had previously been contracted for using a competitive bid process, then the department shall not expend on the development of that examination an amount that exceeds the amount that the department expended on procurement of the most recent competitively-bid version of that examination.

(11) The superintendent of public instruction shall appoint an 11-member teacher examination advisory committee comprised of representatives of approved teacher education institutions and Michigan education organizations and associations. Not more than 1/2 of the members comprising this committee shall be certified teachers. This committee shall recommend criteria to be used by the superintendent of public instruction in the development, selection, or development and selection of 1 or more basic skills examinations, and criteria to be used by the superintendent of public instruction in the development, selection, or development and selection of subject area examinations. In addition, the committee shall recommend guidelines for the use and administration of those examinations. The basic skills examinations referred to in this subsection may be developed by the superintendent of public instruction or selected by the superintendent of public instruction from commercially or university developed examinations. In addition, an approved teacher education institution, pursuant to guidelines and criteria described in subsection (9), may develop an examination at its own expense for approval by the superintendent of public instruction. An approved teacher education institution that develops its own examination is liable for any litigation that results from the use of its examination.

(12) The superintendent of public instruction shall appoint a 7-member standing technical advisory council comprised of persons who are experts in measurement and assessment. This council shall advise the superintendent of public instruction and the teacher examination committee on the validity, reliability, and other technical standards of the examinations that will be used or are being used and of the administration and use of those examinations.

(13) Not later than November 30 of each year, the superintendent of public instruction shall submit in writing a report on the development or selection and use of the basic skills examination, the elementary certification examination, and the subject area examinations to the house and senate education committees. The report shall also contain a financial statement regarding revenue received from the assessment of fees levied pursuant to subsection (15) and the amount of and any purposes for which that revenue was expended.

(14) The basic skills examination, the elementary certification examination, and the subject area examinations required by this section may be taken at different times during an approved teacher preparation program, but the basic skills examination must be passed before a person is enrolled for student teaching and the elementary certification examination and the subject area examinations, as applicable, must be passed before a person is recommended for certification.

(15) The department, or if approved by the superintendent of public instruction, a private testing service, may assess fees for taking the basic skills examination, elementary certification examination, and the subject area examinations. The fees, which shall be set by the superintendent of public instruction, shall not exceed the actual cost of the examination and of administering the examination. Fees received by the department shall be expended solely for administrative expenses that it incurs in implementing this section. If the superintendent of public instruction increases a fee charged for an examination under this subsection, at least 1 year before implementing the fee increase, the department shall notify each approved teacher education institution of the amount of the fee increase. An approved teacher education institution shall notify each of its affected students of the timing and amount of such a fee increase.

(16) If a person holding a teaching certificate from another state applies for a Michigan teaching certificate and meets all requirements for the Michigan teaching certificate except passage of the appropriate examinations under subsection (3), the superintendent of public instruction shall issue a nonrenewable temporary teaching certificate, good for 1 year, to the person. The superintendent of public instruction shall not issue a Michigan teaching certificate to the person after expiration of the temporary teaching certificate unless the person passes appropriate examinations as described in subsection (3).

(17) As used in this section:

(a) "Basic skills examination" means an examination developed or selected by the superintendent of public instruction or developed pursuant to subsection (11) by an approved teacher education institution for the purpose of demonstrating the applicant's knowledge and understanding of basic language and mathematical skills and other skills necessary for the certificate sought, and for determining whether or not an applicant is eligible for a provisional Michigan teaching certificate.

(b) "Elementary certification examination" means a comprehensive examination for elementary certification that has been developed or selected by the superintendent of public instruction for demonstrating the applicant's knowledge and understanding of the core subjects normally taught in elementary classrooms and for determining whether or not an applicant is eligible for an elementary level teaching certificate.

(c) "Subject area examination" means an examination related to a specific area of certification, which examination has been developed or selected by the superintendent of public instruction for the purpose of demonstrating the applicant's knowledge and understanding of the subject matter and determining whether or not an applicant is eligible for a Michigan teaching certificate.

(18) The superintendent of public instruction shall promulgate rules for the implementation of this section.

(19) Notwithstanding any rule to the contrary, the superintendent of public instruction shall continue to issue state elementary or secondary continuing education certificates pursuant to R 390.1132(1) of the Michigan administrative code to persons who completed the requirements of that rule by December 31, 1992 and who apply for that certificate not later than March 15, 1994. If the superintendent of public instruction has issued a state elementary or secondary professional education certificate to a person described in this section, the superintendent of public instruction shall consider the person to have a state elementary or secondary, as applicable, continuing education certificate.

History: 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1977, Act 226, Imd. Eff. Nov. 30, 1977;—Am. 1978, Act 613, Imd. Eff. Jan. 6, 1979;—Am. 1986, Act 267, Imd. Eff. Dec. 19, 1986;—Am. 1992, Act 282, Imd. Eff. Dec. 18, 1992;—Am. 1993, Act 335, Imd. Eff. Dec. 31, 1993;—Am. 1995, Act 289, Eff. July 1, 1996;—Am. 2000, Act 497, Imd. Eff. Jan. 11, 2001;—Am. 2006, Act 118, Imd. Eff. Apr. 14, 2006;—Am. 2007, Act 32, Imd. Eff. July 2, 2007;—Am. 2015, Act 159, Eff. Jan. 18, 2016.

Popular name: Act 451

380.1531a Positions requiring valid teaching certificate.

Sec. 1531a. Beginning July 1, 1990, a person who is employed by the department of education, the department of mental health, the department of social services, or the department of corrections in a position the state board determines to be equivalent to a position with a school district or intermediate school district as a superintendent, principal, assistant principal, other person whose primary responsibility is administering instructional programs, or chief business official shall possess a valid teaching certificate.

History: Add. 1990, Act 161, Imd. Eff. July 2, 1990.

Popular name: Act 451

380.1531b Student teaching; teacher preparation program.

Sec. 1531b. Beginning July 1, 1995, before an individual may engage in student teaching in a school in this state, the individual or the college or university in which the individual is or was enrolled for teacher preparation shall demonstrate to the satisfaction of the school or school district that the teacher preparation program requires of individuals who student teach at least all of the following:

(a) High academic achievement.

(b) Demonstration of successful group work with children as a condition for admission to the teacher preparation curriculum.

(c) Knowledge of research-based teaching.

(d) Working knowledge of modern technology and use of computers.

History: Add. 1993, Act 335, Imd. Eff. Dec. 31, 1993.

Popular name: Act 451

380.1531c Fast-track teacher preparation program.

Sec. 1531c. The state board shall develop and approve, and advocate to state universities that they adopt, an expedited “fast-track” teacher preparation program to be available to individuals who have outstanding academic credentials, who are exceptionally gifted performers or artists, or who are outstanding professionals expert in their fields of endeavor.

History: Add. 1993, Act 335, Imd. Eff. Dec. 31, 1993.

Popular name: Act 451

380.1531d First aid and cardiopulmonary resuscitation; requirements for teacher certification.

Sec. 1531d. (1) Beginning July 1, 2004, the superintendent of public instruction shall not issue an initial teaching certificate to a person unless the person presents evidence satisfactory to the superintendent of public instruction that the person meets 1 of the following:

(a) Has successfully completed a course approved by the department in first aid and cardiopulmonary resuscitation, including a test demonstration on a mannequin, and has successfully completed instruction approved by the department in foreign body airway obstruction management, and holds valid certification in these topics issued by the American red cross, American heart association, or a comparable organization or institution approved by the department.

(b) Has physical limitations that make it impracticable for the person to complete the instruction and obtain the required certification under subdivision (a).

(2) A person who meets the requirements described in subsection (1)(a) and who performs first aid, cardiopulmonary resuscitation, or foreign body airway obstruction management on another person in the course of his or her employment as a teacher is not liable in a civil action for damages resulting from an act or omission occurring in that performance except an act or omission constituting gross negligence or willful and wanton misconduct.

(3) This section does not create a duty to act on the part of a person who holds the certification described in subsection (1)(a).

History: Add. 2003, Act 18, Imd. Eff. June 10, 2003.

Popular name: Act 451

380.1531e Professional education certificate.

Sec. 1531e. (1) Notwithstanding any other provision of this act or a rule to the contrary, if a person earns a provisional teaching certificate and that certificate lapses before the person completes the requirements for a professional education certificate, and if a school district or public school academy applies to the department on that person's behalf for another provisional teaching certificate within 10 years after the person's initial provisional teaching certificate lapsed, the department shall issue a new provisional teaching certificate to the person. This new provisional teaching certificate shall be valid for 2 years and may not be renewed. The person shall have this 2-year period to complete the requirements for a professional education certificate, and the department shall credit toward the requirements for a professional education certificate any continuing education or other requirements completed while the person's initial teaching certificate was valid.

(2) This section applies to a person described in subsection (1) regardless of whether the person's provisional teaching certificate lapsed before or after the effective date of this section.

(3) This section does not apply to a person convicted of a crime described in section 1535a.

History: Add. 2000, Act 230, Imd. Eff. June 27, 2000.

Popular name: Act 451

380.1531f Teaching of Native American tribal language and culture class; use of teachers not possessing valid Michigan teaching certificate; memorandum of understanding; credit toward completion of language requirements.

Sec. 1531f. (1) The department may enter into a memorandum of understanding with a federally recognized Native American tribe, the board of a school district, or the board of directors of a public school

academy that authorizes the superintendent of public instruction to issue a 3-year letter of approval or continuing approval to allow the Native American tribe, school district, or public school academy to use teachers who do not possess a valid Michigan teaching certificate to teach a Native American tribal language and culture class. A memorandum of understanding entered into under this section shall require that a noncertificated teacher has demonstrated mastery of the tribal language either through a credential issued by a federally recognized Native American tribe or another means considered suitable by the department. The memorandum of agreement shall include requirements for renewal or continuing approval of the noncertificated teacher as established by the Native American tribe, the board of the school district, or the board of directors of the public school academy in collaboration with the department.

(2) Credits earned by a pupil in a Native American tribal language taught by a noncertificated teacher pursuant to this section may be applied by the Native American tribe, school district, or public school academy for any purpose to the same extent as if taught by a certificated teacher, including, but not limited to, credit toward completion of the credit requirements under section 1278a concerning a language other than English.

History: Add. 2010, Act 168, Imd. Eff. Sept. 30, 2010.

Popular name: Act 451

380.1531g Michigan secondary level teaching certificate; certification to teach grade 6.

Sec. 1531g. Notwithstanding any rule to the contrary, if an individual holds a valid Michigan secondary level teaching certificate, the individual is certified to teach grade 6 in the subject areas in which he or she has endorsements on the teaching certificate.

History: Add. 2006, Act 334, Imd. Eff. Aug. 15, 2006.

Compiler's note: Act 451

380.1531h Teacher certification database system; establishment; implementation; funding.

Sec. 1531h. (1) Not later than July 1, 2010, the department shall establish and implement a teacher certification database system that provides for at least all of the following:

- (a) The ability for teachers to renew a professional teaching certificate online.
 - (b) Online credit card payment capability, to result in processing of teaching certificate applications and issuance of teaching certificates within 48 to 72 hours for in-state applicants and within 3 weeks for out-of-state applicants who have provided a complete application, as determined by the department.
 - (c) A central registry that documents each teacher's professional development activities and completion of state board continuing education units.
 - (d) Improved compatibility with the registry of educational personnel data reporting system.
 - (e) Improved efficiency of the teacher preparation institution web-based teacher certification recommendation process.
 - (f) Improved capacity to generate reports about the number of certificates and endorsements issued.
 - (g) Improved quality control through customization of the system.
- (2) The department shall fund the system required under subsection (1) from the fee increases in section 1538 that result from the amendatory act that added this section.

History: Add. 2007, Act 144, Imd. Eff. Nov. 19, 2007.

Popular name: Act 451

380.1531i Interim teaching certificate.

Sec. 1531i. (1) The superintendent of public instruction shall establish a process for a person to earn an interim teaching certificate under this section that qualifies the person to teach in the public schools and to earn a Michigan teaching certificate using the process under this section. The process shall meet all applicable requirements for an alternative teaching certification process under the no child left behind act of 2001, Public Law 107-110. The process shall not allow for an interim teaching certificate for special education.

(2) The process established under subsection (1) shall provide that the superintendent of public instruction will grant an interim teaching certificate to a person who meets all of the following:

(a) Is a participant in an alternative teaching program that is approved by the superintendent of public instruction. To be approved, a program provider shall demonstrate to the satisfaction of the superintendent of public instruction that it meets all of the following:

(i) Provides for its participants an intensive training program in teaching that is determined by the superintendent of public instruction to constitute the equivalent of at least 12 college credit hours and that includes training in at least all of the following subject areas:

(A) Child development or child psychology.

- (B) Family and community relationships.
- (C) Diverse learners.
- (D) Instructional strategies.
- (E) A form of field-based experience in a classroom setting.
- (ii) Has a proven record of producing successful teachers in 1 or more other states or is modeled after a program that has a proven record of producing successful teachers in 1 or more other states.
- (iii) Accepts for participation only persons who meet the requirements of subdivision (b).
- (b) Holds a bachelor's, master's, doctorate, or professional degree from a regionally accredited college or university with a grade point average of at least 3.0 on a 4.0 scale or the equivalent on another scale, as determined by the superintendent of public instruction.
- (c) Passes both the basic skills examination and the appropriate available subject area examination for each subject area in which he or she applies to be certified.
- (3) A person earning a provisional certificate under this section will be subject to provisions of administrative rules governing teachers, as established by the superintendent of public instruction.
- (4) A person who possesses an interim teaching certificate under this section may be employed to teach in a public school in the same manner as a person holding a Michigan teaching certificate issued under section 1531 if all of the following requirements are met:
 - (a) While the person is teaching under an interim teaching certificate, the school district or public school academy in which the person is teaching provides intensive observation and coaching in a manner and to the extent prescribed by the superintendent of public instruction.
 - (b) The person is making satisfactory progress toward meeting the requirements for being awarded a Michigan teaching certificate under section 1531, as established by the superintendent of public instruction under subsection (5).
- (5) The superintendent of public instruction shall develop standards for granting a person a Michigan teaching certificate issued under section 1531 after the person has demonstrated satisfactory teaching performance for 3 years under an interim teaching certificate and has met the requirements established by the superintendent of public instruction for a Michigan teaching certificate.
- (6) The superintendent of public instruction shall promulgate rules that he or she considers necessary to implement this section.
- (7) As used in this section, "basic skills examination", "elementary certification examination", and "subject area examination" mean those terms as defined in section 1531.

History: Add. 2009, Act 202, Imd. Eff. Jan. 4, 2010.

Popular name: Act 451

380.1531j Issuance of initial professional teaching certificate; requirements.

Sec. 1531j. Notwithstanding any other provision of this act or a rule to the contrary, beginning July 1, 2018, the superintendent of public instruction shall not issue an initial professional teaching certificate to an individual unless the individual presents evidence satisfactory to the superintendent of public instruction demonstrating that he or she meets all of the following:

- (a) The individual has successfully completed at least 3 full years of classroom teaching.
- (b) The individual meets either of the following:
 - (i) Was rated as either effective or highly effective on his or her annual year-end performance evaluation under section 1249 for the 3 consecutive school years immediately preceding his or her application for the professional teaching certificate.
 - (ii) Was rated as either effective or highly effective on his or her annual year-end performance evaluation under section 1249 for at least 3 nonconsecutive school years before his or her application for the professional teaching certificate and submits a recommendation from the chief school administrator of the school at which he or she is currently employed that he or she be issued a professional teaching certificate.

History: Add. 2015, Act 173, Imd. Eff. Nov. 5, 2015.

Popular name: Act 451

380.1531k Issuance of initial or renewed advanced professional education certificate; requirements.

Sec. 1531k. Beginning on the effective date of this section, the superintendent of public instruction shall not issue an initial advanced professional education certificate to an individual, or renew an individual's advanced professional education certificate, unless the individual presents evidence satisfactory to the superintendent of public instruction demonstrating that he or she meets all of the following:

- (a) Has been rated as highly effective on his or her annual year-end evaluation under section 1249 for 3 out

of the 5 most recent school years.

(b) Has not been rated ineffective on his or her annual year-end evaluation under section 1249 within the 5 most recent school years.

(c) Meets additional criteria established by the department.

History: Add. 2015, Act 173, Imd. Eff. Nov. 5, 2015.

Popular name: Act 451

380.1532 Teaching certificate; validity; recording; oath or affirmation; nullification.

Sec. 1532. (1) Before a teaching certificate is valid in this state, the holder shall record the certificate in the office of the intermediate superintendent or of the superintendent of schools of the school district in which the holder expects to teach.

(2) Before a teaching certificate is valid in this state, the holder shall make and subscribe the following oath or affirmation:

"I do solemnly swear (or affirm) that I will support the constitution of the United States of America and the constitution of the state of Michigan and that I will faithfully discharge the duties of the office of teacher according to the best of my ability".

(3) The oath set forth in subsection (2) shall be signed by the holder of the teaching certificate, notarized, and attached to or superimposed on the teaching certificate.

(4) Except as provided in this act, a teacher's teaching certificate shall not be nullified except by the state board and for a cause that would have initially justified the withholding of the certificate.

(5) Upon the request of a teacher, the state board immediately shall nullify that teacher's teaching certificate. Upon the request of a teacher, the state board may nullify 1 or more endorsements on the teaching certificate, or a grade level certification included in the teaching certificate, if the grade level certification or endorsement has not been used for 12 or more years.

(6) The state board shall not reinstate, reissue, or renew a teaching certificate, endorsement on a teaching certificate, or a grade level certification that has been nullified pursuant to subsection (5).

History: 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1988, Act 503, Imd. Eff. Dec. 29, 1988;—Am. 1995, Act 289, Eff. July 1, 1996;—Am. 2006, Act 619, Imd. Eff. Jan. 3, 2007.

Popular name: Act 451

380.1533 Teacher's certificate; age requirement.

Sec. 1533. A certificate qualifying a person to teach in the public schools of this state shall not be granted to a person who is not at least 18 years of age. A certificate granted in contravention of this section is void.

History: 1976, Act 451, Imd. Eff. Jan. 13, 1977.

Popular name: Act 451

380.1534 Completion of requirements for teaching certificate by deaf, deafblind, or hard of hearing person; limitation.

Sec. 1534. For a deaf, deafblind, or hard of hearing person who has completed all of the requirements for a teaching certificate under this act, other than the student teaching experience with hearing students, and who is verified as having successfully completed the student teaching experience in a special program serving deaf, deafblind, or hard of hearing students, upon that person's request, the department shall issue to that person a teaching certificate limited to teaching deaf, deafblind, and hard of hearing students in appropriate programs.

History: Add. 1978, Act 608, Imd. Eff. Jan. 5, 1979;—Am. 2016, Act 133, Eff. Aug. 24, 2016.

Popular name: Act 451

380.1535 Teacher considered certificated and holder of valid teacher's certificate; time.

Sec. 1535. For purposes of endorsement or recertification, a teacher shall be considered certificated and the holder of a valid teacher's certificate on the completion date of the requirements of a teacher education college, as defined by the college catalog of courses, until such time as the certification is confirmed or rejected by the state board of education.

History: Add. 1983, Act 118, Imd. Eff. July 18, 1983.

Popular name: Act 451

380.1535a Conviction of teacher for certain crimes; notice of right to hearing; suspension of teaching certificate; summary suspension; findings for action under subsection (1) or (2); compensation; reinstatement, continued suspension, or permanent revocation of teaching

certificate; effect of reversal of conviction on final appeal; notice of conviction; evidence of conviction; failure to make final decision and order; construction of section; rules; comparison of individuals holding teaching certificate with conviction information; definitions.

Sec. 1535a. (1) Subject to subsection (2), if a person who holds a teaching certificate that is valid in this state has been convicted of a crime described in this subsection, within 10 working days after receiving notice of the conviction the superintendent of public instruction shall notify the person in writing that his or her teaching certificate may be suspended because of the conviction and of his or her right to a hearing before the superintendent of public instruction. The hearing shall be conducted as a contested case under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. If the person does not avail himself or herself of this right to a hearing within 15 working days after receipt of this written notification, the teaching certificate of that person shall be suspended. If a hearing takes place, the superintendent of public instruction shall complete the proceedings and make a final decision and order within 120 working days after receiving the request for a hearing. Subject to subsection (2), the superintendent of public instruction may suspend the person's teaching certificate based upon the issues and evidence presented at the hearing. This subsection applies to any of the following crimes:

- (a) Any felony.
- (b) Any of the following misdemeanors:
 - (i) Criminal sexual conduct in the fourth degree or an attempt to commit criminal sexual conduct in the fourth degree.
 - (ii) Child abuse in the third or fourth degree or an attempt to commit child abuse in the third or fourth degree.
 - (iii) A misdemeanor involving cruelty, torture, or indecent exposure involving a child.
 - (iv) A misdemeanor violation of section 7410 of the public health code, 1978 PA 368, MCL 333.7410.
 - (v) A violation of section 115, 141a, 335a, or 359 of the Michigan penal code, 1931 PA 328, MCL 750.115, 750.141a, 750.335a, and 750.359, or a misdemeanor violation of section 81, 81a, or 145d of the Michigan penal code, 1931 PA 328, MCL 750.81, 750.81a, and 750.145d.
 - (vi) A misdemeanor violation of section 701 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1701.
 - (vii) Any misdemeanor that is a listed offense.
- (c) A violation of a substantially similar law of another state, of a political subdivision of this state or another state, or of the United States.

(2) If a person who holds a teaching certificate that is valid in this state has been convicted of a crime described in this subsection, the superintendent of public instruction shall find that the public health, safety, or welfare requires emergency action and shall order summary suspension of the person's teaching certificate under section 92 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.292, and shall subsequently provide an opportunity for a hearing as provided under that section. This subsection does not limit the superintendent of public instruction's ability to order summary suspension of a person's teaching certificate for a reason other than described in this subsection. This subsection applies to conviction of any of the following crimes:

- (a) Criminal sexual conduct in any degree, assault with intent to commit criminal sexual conduct, or an attempt to commit criminal sexual conduct in any degree.
- (b) Felonious assault on a child, child abuse in the first degree, or an attempt to commit child abuse in the first degree.
- (c) Cruelty, torture, or indecent exposure involving a child.
- (d) A violation of section 7401(2)(a)(i), 7403(2)(a)(i), 7410, or 7416 of the public health code, 1978 PA 368, MCL 333.7401, 333.7403, 333.7410, and 333.7416.
- (e) A violation of section 83, 89, 91, 145a, 145b, 145c, 316, 317, 350, 448, 455, or 529 of the Michigan penal code, 1931 PA 328, MCL 750.83, 750.89, 750.91, 750.145a, 750.145b, 750.145c, 750.316, 750.317, 750.350, 750.448, 750.455, and 750.529, or a felony violation of section 145d of the Michigan penal code, 1931 PA 328, MCL 750.145d.
- (f) A violation of section 158 of the Michigan penal code, 1931 PA 328, MCL 750.158, if a victim is an individual less than 18 years of age.
- (g) Except for a juvenile disposition or adjudication, a violation of section 338, 338a, or 338b of the Michigan penal code, 1931 PA 328, MCL 750.338, 750.338a, and 750.338b, if a victim is an individual less than 18 years of age.
- (h) A violation of section 349 of the Michigan penal code, 1931 PA 328, MCL 750.349, if a victim is an

individual less than 18 years of age.

(i) An offense committed by a person who was, at the time of the offense, a sexually delinquent person as defined in section 10a of the Michigan penal code, 1931 PA 328, MCL 750.10a.

(j) Any other crime that is a listed offense.

(k) An attempt or conspiracy to commit an offense listed in subdivision (a), (e), (f), (g), (h), (i), or (j).

(l) A violation of a substantially similar law of another state, of a political subdivision of this state or another state, or of the United States.

(m) Any other crime listed in subsection (1), if the superintendent of public instruction determines the public health, safety, or welfare requires emergency action based on the circumstances underlying the conviction.

(3) All of the following apply to any proceedings affecting a person's teaching certificate under this section:

(a) The superintendent of public instruction shall appoint a designee to perform the investigatory and prosecutorial functions involved in the proceedings. However, the superintendent of public instruction must approve any settlement, conditional agreement, or other decision not to proceed with charges.

(b) Any final action that affects the status of a person's teaching certificate shall be taken by the superintendent of public instruction.

(c) The superintendent of public instruction after a hearing shall not take action against a person's teaching certificate under subsection (1) or (2) unless the superintendent of public instruction finds that the conviction is reasonably and adversely related to the person's present fitness to serve in an elementary or secondary school in this state or that the conviction demonstrates that the person is unfit to teach in an elementary or secondary school in this state. Further, the superintendent of public instruction may take action against a person's teaching certificate under subsection (1) or (2) based on a conviction that occurred before April 1, 2004 if the superintendent of public instruction finds that the conviction is reasonably and adversely related to the person's present fitness to serve in an elementary or secondary school in this state or that the conviction demonstrates that the person is unfit to teach in an elementary or secondary school in this state. For the purposes of this section, conviction of a listed offense is reasonably and adversely related to the person's fitness to serve in an elementary or secondary school in this state and demonstrates that the person is unfit to teach in an elementary or secondary school in this state.

(4) If a person who has entered a plea of guilt or no contest to or who is the subject of a finding of guilt by a judge or jury of a crime listed in subsection (2) has been suspended from active performance of duty by a public school, school district, intermediate school district, or nonpublic school during the pendency of proceedings under this section, the public school, school district, intermediate school district, or nonpublic school employing the person shall discontinue the person's compensation until the superintendent of public instruction has made a final determination of whether or not to suspend or revoke the person's teaching certificate. If the superintendent of public instruction does not suspend or revoke the person's teaching certificate, the public school, school district, intermediate school district, or nonpublic school shall make the person whole for lost compensation, without interest. However, if a collective bargaining agreement is in effect as of January 1, 2006 for employees of a school district, intermediate school district, or public school academy, and if the terms of that collective bargaining agreement are inconsistent with this subsection, then this subsection does not apply to that school district, intermediate school district, or public school academy until after the expiration of that collective bargaining agreement.

(5) Except as otherwise provided in this subsection, after the completion of a person's sentence, the person may request a hearing on reinstatement of his or her teaching certificate. Based upon the issues and evidence presented at the hearing, the superintendent of public instruction may reinstate, continue the suspension of, or permanently revoke the person's teaching certificate. The superintendent of public instruction shall not reinstate a person's teaching certificate unless the superintendent of public instruction finds that the person is currently fit to serve in an elementary or secondary school in this state and that reinstatement of the person's teaching certificate will not adversely affect the health, safety, and welfare of pupils. If a person's conviction was for a listed offense, the person is not entitled to request a hearing on reinstatement under this subsection, and the superintendent of public instruction shall not reinstate the person's teaching certificate under this subsection.

(6) All of the following apply to a person described in this section whose conviction is reversed upon final appeal:

(a) The person's teaching certificate shall be reinstated upon his or her notification to the superintendent of public instruction of the reversal.

(b) If the suspension of the person's teaching certificate under this section was the sole cause of his or her discharge from employment, the person shall be reinstated, upon his or her notification to the appropriate

local or intermediate school board of the reversal, with full rights and benefits, to the position he or she would have had if he or she had been continuously employed.

(c) If the person's compensation was discontinued under subsection (4), the public school, school district, intermediate school district, or nonpublic school shall make the person whole for lost compensation.

(7) If the prosecuting attorney in charge of a case receives a form as provided under section 1230d, the prosecuting attorney shall notify the superintendent of public instruction, and any public school, school district, intermediate school district, or nonpublic school in which the person is employed by forwarding a copy of the form to each of them not later than 7 days after receiving the form. If the court receives a form as provided under section 1230d, the court shall notify the superintendent of public instruction and any public school, school district, intermediate school district, or nonpublic school in which the person is employed by forwarding to each of them a copy of the form and information regarding the sentence imposed on the person not later than 7 days after the date of sentencing, even if the court is maintaining the file as a nonpublic record.

(8) Not later than 7 days after receiving notification from the prosecuting attorney or the court under subsection (7) or learning through an authoritative source that a person who holds a teaching certificate has been convicted of a crime listed in subsection (1), the superintendent of public instruction shall request the court to provide a certified copy of the judgment of conviction and sentence or other document regarding the disposition of the case to the superintendent of public instruction and shall pay any fees required by the court. The court shall provide this certified copy within 7 days after receiving the request and fees under this section or after entry of the judgment or other document, whichever is later, even if the court is maintaining the judgment or other document as a nonpublic record.

(9) If the superintendent of a school district or intermediate school district, the chief administrative officer of a nonpublic school, the president of the board of a school district or intermediate school district, or the president of the governing board of a nonpublic school is notified or learns through an authoritative source that a person who holds a teaching certificate and who is employed by the school district, intermediate school district, or nonpublic school has been convicted of a crime described in subsection (1) or (2), the superintendent, chief administrative officer, or board president shall notify the superintendent of public instruction of that conviction within 15 days after learning of the conviction.

(10) For the purposes of this section, a certified copy of the judgment of conviction and sentence is conclusive evidence of conviction of a crime described in this section. For the purposes of this section, conviction of a crime described in this section is considered to be reasonably and adversely related to the ability of the person to serve in an elementary or secondary school and is sufficient grounds for suspension or revocation of the person's teaching certificate.

(11) For any hearing under subsection (1), if the superintendent of public instruction does not make a final decision and order within 120 working days after receiving the request for the hearing, as required under subsection (1), the superintendent of public instruction shall submit a report detailing the reasons for the delay to the standing committees and appropriations subcommittees of the senate and house of representatives that have jurisdiction over education and education appropriations. The failure of the superintendent of public instruction to make a final decision and order within this 120 working day time limit, or the failure of any other official or agency to meet a time limit prescribed in this section, does not affect the validity of an action taken under this section affecting a person's teaching certificate.

(12) Beginning July 1, 2004, the superintendent of public instruction shall submit to the legislature a quarterly report of all final actions he or she has taken under this section affecting a person's teaching certificate during the preceding quarter. The report shall contain at least all of the following with respect to each person whose teaching certificate has been affected:

(a) The person's name, as it appears on the teaching certificate.

(b) The school district, intermediate school district, public school academy, or nonpublic school in which the person was employed at the time of the conviction, if any.

(c) The offense for which the person was convicted and the date of the offense and date of the conviction.

(d) Whether the action taken by the superintendent of public instruction was a summary suspension, suspension due to failure to request a hearing, suspension, revocation, or reinstatement of the teaching certificate.

(13) This section does not do any of the following:

(a) Prohibit a person who holds a teaching certificate from seeking monetary compensation from a school board or intermediate school board if that right is available under a collective bargaining agreement or another statute.

(b) Limit the rights and powers granted to a school district or intermediate school district under a collective bargaining agreement, this act, or another statute to discipline or discharge a person who holds a teaching certificate.

certificate.

(14) The superintendent of public instruction may promulgate, as necessary, rules to implement this section pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(15) The department of information technology shall work with the department and the department of state police to develop and implement an automated program that does a comparison of the department's list of individuals holding a teaching certificate or state board approval, and of any other list maintained by the department of individuals employed or regularly and continuously working under contract in a school, with the conviction information received by the department of state police. This comparison shall only include individuals who are actually school employees at the time of the comparison or who are regularly and continuously working under contract at the time of the comparison. Unless otherwise prohibited by law, this comparison shall include convictions contained in a nonpublic record. The department and the department of state police shall perform this comparison during January and June of each year until July 1, 2008. The department of state police shall take all reasonable and necessary measures using the available technology to ensure the accuracy of this comparison before transmitting the information under this subsection to the department. The department shall take all reasonable and necessary measures using the available technology to ensure the accuracy of this comparison before notifying a school district, intermediate school district, public school academy, or nonpublic school of a conviction. If a comparison discloses that a person on the department's list of individuals holding a teaching certificate or state board approval has been convicted of a crime, or if the department is otherwise notified by the department of state police that such a person has been convicted of a crime, the department shall notify the superintendent or chief administrator and the board or governing body of the school district, intermediate school district, public school academy, or nonpublic school in which the person is employed of that conviction.

(16) As used in this section:

(a) "Conviction" means a judgment entered by a court upon a plea of guilty, guilty but mentally ill, or nolo contendere or upon a jury verdict or court finding that a defendant is guilty or guilty but mentally ill.

(b) "Felony" means that term as defined in section 1 of chapter I of the code of criminal procedure, 1927 PA 175, MCL 761.1.

(c) "Listed offense" means that term as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

(d) "Prosecuting attorney" means the prosecuting attorney for a county, an assistant prosecuting attorney for a county, the attorney general, the deputy attorney general, an assistant attorney general, a special prosecuting attorney, or, in connection with the prosecution of an ordinance violation, an attorney for the political subdivision that enacted the ordinance upon which the violation is based.

(e) "Regularly and continuously work under contract" means that term as defined in section 1230d.

History: Add. 1987, Act 61, Eff. Mar. 30, 1988;—Am. 1990, Act 35, Imd. Eff. Mar. 22, 1990;—Am. 1992, Act 99, Imd. Eff. June 23, 1992;—Am. 1994, Act 144, Imd. Eff. June 2, 1994;—Am. 1995, Act 97, Imd. Eff. June 22, 1995;—Am. 1995, Act 289, Eff. July 1, 1996;—Am. 2004, Act 51, Imd. Eff. Apr. 1, 2004;—Am. 2005, Act 130, Eff. Jan. 1, 2006;—Am. 2006, Act 84, Imd. Eff. Mar. 31, 2006;—Am. 2006, Act 680, Imd. Eff. Jan. 10, 2007.

Popular name: Act 451

380.1536 School administrator's certificate; administration of instructional programs; endorsements; development of standards and procedures by state board; consultation; duration of certificate validity; alternative pathways to earning certificate; "established state professional organization" defined.

Sec. 1536. (1) The state board shall develop a school administrator's certificate that shall be issued to all school district and intermediate school district superintendents, school principals, assistant principals, and other administrators whose primary responsibility is administering instructional programs and who meet the requirements established under subsection (3). An individual described in section 1246(1)(a) is not required by this section to have a school administrator's certificate under this section or an endorsement under subsection (2) to be employed as a school administrator by a school district, public school academy, intermediate school district, or nonpublic school.

(2) The state board also shall develop appropriate certificate endorsements for school administrators, by elementary, secondary, and central office level.

(3) The state board shall develop standards, and the superintendent of public instruction shall develop procedures, to implement this section. The standards and procedures shall address at least all of the following:

(a) The educational and professional experience requirements for a certificate or endorsement under this section.

(b) Continuing education requirements for periodic recertification. These requirements shall be consistent

with the continuing education requirements under section 1246.

(c) Procedures for application for and issuance of certificates and endorsements under this section.

(d) Standards and procedures for suspension and revocation of a certificate. These standards and procedures shall be based on the standards and procedures for taking action against a person's teaching certificate under section 1535a.

(4) The department shall consult and work with appropriate professional organizations, primarily organizations representing superintendents and building-level administrators, in developing the standards required under this section.

(5) For the purposes of adding 1 or more enhancement or specialty endorsements for a school administrator's certificate, the department may recognize performance-based professional learning programs offered by established state professional organizations that represent school administrators described in subsection (1). These programs must be approved by the department based on alignment with state board-approved school administrator program preparation standards.

(6) A school administrator's certificate issued under this section is valid for 5 years and shall be renewed upon completion of renewal units as determined by the superintendent of public instruction.

(7) The department shall recognize alternative pathways to earning the basic school administrator's certificate based on experience or alternative preparation, or both, if the alternative certification program is submitted by an established state professional organization and meets criteria set forth by state board approved school administrator program preparation standards.

(8) As used in this section, "established state professional organization" means an association that has served members on a statewide basis for at least 10 years.

History: Add. 2006, Act 335, Imd. Eff. Aug. 15, 2006;—Am. 2009, Act 205, Imd. Eff. Jan. 4, 2010.

Compiler's note: Former MCL 380.1536, which pertained to school administrator certificate, was repealed by Act 289 of 1995, Eff. July 1, 1996.

Popular name: Act 451

380.1536a Repealed. 1995, Act 289, Eff. July 1, 1996.

Compiler's note: The repealed section pertained to positions requiring valid school administrator certificate.

380.1538 Fees for evaluation of application; validity of certificate, permit, authorization, endorsement, approval, or certain renewals.

Sec. 1538. (1) An applicant shall pay the following fees to the department for having the application evaluated for conformance with the application requirements:

	In-State Applicant	Out-of-State Applicant
(a) <u>Original application fee</u>		
(i) <u>Provisional teaching</u> certificate	\$160.00	\$210.00
(ii) <u>Professional teaching</u> certificate.....	160.00	210.00
(iii) <u>Vocational temporary</u> authorization or interim occupational certificate	160.00	210.00
(iv) <u>Occupational education</u> certificate	160.00	210.00
(v) <u>Additional teaching certificate</u> endorsement	50.00	
(vi) <u>Substitute teacher permit</u>	45.00	
(vii) <u>Full-year teacher permit</u>	45.00	
(viii) <u>Emergency permit</u>	45.00	
(ix) <u>Annual occupational</u> authorization	40.00	
(x) <u>Duplicate certificate or</u> authorization	25.00	
(xi) <u>School psychologist</u> certificate	160.00	210.00
(xii) <u>Temporary special education</u> approval	50.00	
(xiii) <u>School administrator certificate</u> for persons eligible for		

	certificate after July 1, 1988	160.00	210.00
(xiv)	School administrator endorsement	50.00	
(xv)	School counselor license	160.00	210.00
(b)	<u>Renewal or reinstatement application fee</u>		<u>In-State Applicant</u>
(i)	Provisional teaching certificate		\$100.00
(ii)	Continuing teaching certificate reinstatement	50.00	
(iii)	Professional teaching certificate	160.00	
(iv)	Vocational temporary authorization or interim occupational certificate	100.00	
(v)	Occupational education certificate	160.00	
(vi)	School psychologist certificate	160.00	
(vii)	School administrator certificate	160.00	
(viii)	School counselor license	160.00	

(2) Except as otherwise provided by an administrative rule in effect on October 1, 1988, or as otherwise provided by law, a certificate, permit, authorization, endorsement, or approval, and the renewal of a certificate, certificate reinstatement, or authorization issued pursuant to subsection (1) is valid for 5 years.

History: Add. 1988, Act 339, Imd. Eff. Oct. 18, 1988;—Am. 2007, Act 144, Imd. Eff. Nov. 19, 2007.

Popular name: Act 451

380.1538a Teacher preparation institution and subject area specialty programs; approval; fees; periodic review; frequency.

Sec. 1538a. (1) A teacher preparation institution and its subject area specialty programs shall be approved by the state as provided under R 390.1151 to R 390.1156 of the Michigan administrative code. As provided under R 390.1151 of the Michigan administrative code, and subject to subsection (3), the teacher preparation program and subject area specialty programs of a state-approved teacher preparation institution are subject to periodic review for conformance with state board standards and procedures.

(2) A state-approved teacher preparation institution shall pay the following fees to the department for approval and periodic review under subsection (1):

(a) For approval or periodic review of a teacher preparation program, the following:

(i) If the college or university of which the teacher preparation institution is part has a total student enrollment of less than 2,000, a fee of \$2,000.00.

(ii) If the college or university of which the teacher preparation institution is part has a total student enrollment of 2,000 or more, a fee of \$3,500.00.

(b) For approval or periodic review of a subject area specialty program, a fee of \$300.00.

(3) The department shall not conduct a periodic review of a particular teacher preparation program or subject area specialty program more frequently than once every 5 years. However, if the content standards for a subject area specialty program are revised, the department may conduct a periodic review of that subject area specialty program before the 5-year review period has expired.

History: Add. 2007, Act 144, Imd. Eff. Nov. 19, 2007.

Popular name: Act 451

380.1539 Teacher-administrator preparation and certification fund; establishment; administration; deposit of fees; receipt of revenue; expenditures; carryover of unexpended money.

Sec. 1539. (1) A teacher-administrator preparation and certification fund is established in the department of treasury to be administered by the department of education.

(2) The department of education shall receive and forward to the state treasurer for deposit in the teacher-administrator preparation and certification fund all fees collected under section 1538 or 1538a. The teacher-administrator preparation and certification fund may receive as revenue money from any other source, as appropriated by the legislature.

(3) The revenue in the teacher-administrator preparation and certification fund shall be expended for the operation of the teacher preparation and certification program and the administrator preparation and certification program and for teacher and administrator professional development and other quality-related activities, including the teacher certification database system under section 1531h.

(4) Money in the teacher-administrator preparation and certification fund that is unexpended at the end of the state fiscal year shall be carried over to the succeeding state fiscal year, shall not revert to the general fund, and shall be expended as provided in subsection (3).

History: Add. 1988, Act 339, Imd. Eff. Oct. 18, 1988;—Am. 2004, Act 76, Imd. Eff. Apr. 21, 2004;—Am. 2007, Act 144, Imd. Eff. Nov. 19, 2007.

Popular name: Act 451

380.1539a Repealed. 2004, Act 51, Imd. Eff. Apr. 1, 2004.

Compiler's note: The repealed section pertained to conviction of school administrator for certain crimes.

Popular name: Act 451

380.1539b Conviction of person holding board approval for certain crimes; notice of right to hearing; suspension; summary suspension; compensation; reinstatement, continued suspension, or permanent revocation of state board approval; notice of conviction; evidence of conviction; failure to complete hearing procedures; construction of section; rules; comparison of individuals holding teaching certificate with conviction information; definitions.

Sec. 1539b. (1) Subject to subsection (2), if a person who holds state board approval has been convicted of a crime described in this subsection, within 10 working days after receiving notice of the conviction the superintendent of public instruction shall notify the person in writing that his or her state board approval may be suspended because of the conviction and of his or her right to a hearing before the superintendent of public instruction. The hearing shall be conducted as a contested case under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. If the person does not avail himself or herself of this right to a hearing within 15 working days after receipt of this written notification, the person's state board approval shall be suspended. If a hearing takes place, the superintendent of public instruction shall complete the proceedings and make a final decision and order within 120 working days after receiving the request for a hearing. Subject to subsection (2), the superintendent of public instruction may suspend the person's state board approval, based upon the issues and evidence presented at the hearing. This subsection applies to any of the following crimes:

(a) Any felony.

(b) Any of the following misdemeanors:

(i) Criminal sexual conduct in the fourth degree or an attempt to commit criminal sexual conduct in the fourth degree.

(ii) Child abuse in the third or fourth degree or an attempt to commit child abuse in the third or fourth degree.

(iii) A misdemeanor involving cruelty, torture, or indecent exposure involving a child.

(iv) A misdemeanor violation of section 7410 of the public health code, 1978 PA 368, MCL 333.7410.

(v) A violation of section 115, 141a, 335a, or 359 of the Michigan penal code, 1931 PA 328, MCL 750.115, 750.141a, 750.335a, and 750.359, or a misdemeanor violation of section 81, 81a, or 145d of the Michigan penal code, 1931 PA 328, MCL 750.81, 750.81a, and 750.145d.

(vi) A misdemeanor violation of section 701 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1701.

(vii) Any misdemeanor that is a listed offense.

(c) A violation of a substantially similar law of another state, of a political subdivision of this state or another state, or of the United States.

(2) If a person who holds state board approval has been convicted of a crime described in this subsection, the superintendent of public instruction shall find that the public health, safety, or welfare requires emergency action and shall order summary suspension of the person's state board approval under section 92 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.292, and shall subsequently provide an opportunity for a hearing as required under that section. This subsection does not limit the superintendent of public instruction's ability to order summary suspension of a person's state board approval for a reason other than described in this subsection. This subsection applies to conviction of any of the following crimes:

(a) Criminal sexual conduct in any degree, assault with intent to commit criminal sexual conduct, or an attempt to commit criminal sexual conduct in any degree.

(b) Felonious assault on a child, child abuse in the first degree, or an attempt to commit child abuse in the first degree.

(c) Cruelty, torture, or indecent exposure involving a child.

(d) A violation of section 7401(2)(a)(i), 7403(2)(a)(i), 7410, or 7416 of the public health code, 1978 PA

368, MCL 333.7401, 333.7403, 333.7410, and 333.7416.

(e) A violation of section 83, 89, 91, 145a, 145b, 145c, 316, 317, 350, 448, 455, or 529 of the Michigan penal code, 1931 PA 328, MCL 750.83, 750.89, 750.91, 750.145a, 750.145b, 750.145c, 750.316, 750.317, 750.350, 750.448, 750.455, and 750.529, or a felony violation of section 145d of the Michigan penal code, 1931 PA 328, MCL 750.145d.

(f) A violation of section 158 of the Michigan penal code, 1931 PA 328, MCL 750.158, if a victim is an individual less than 18 years of age.

(g) Except for a juvenile disposition or adjudication, a violation of section 338, 338a, or 338b of the Michigan penal code, 1931 PA 328, MCL 750.338, 750.338a, and 750.338b, if a victim is an individual less than 18 years of age.

(h) A violation of section 349 of the Michigan penal code, 1931 PA 328, MCL 750.349, if a victim is an individual less than 18 years of age.

(i) An offense committed by a person who was, at the time of the offense, a sexually delinquent person as defined in section 10a of the Michigan penal code, 1931 PA 328, MCL 750.10a.

(j) Any other crime that is a listed offense.

(k) An attempt or conspiracy to commit an offense listed in subdivision (a), (e), (f), (g), (h), (i), or (j).

(l) A violation of a substantially similar law of another state, of a political subdivision of this state or another state, or of the United States.

(m) Any other crime listed in subsection (1), if the superintendent of public instruction determines the public health, safety, or welfare requires emergency action based on the circumstances underlying the conviction.

(3) All of the following apply to any proceedings affecting a person's state board approval under this section:

(a) The superintendent of public instruction shall appoint a designee to perform the investigatory and prosecutorial functions involved in the proceedings. However, the superintendent of public instruction must approve any settlement, conditional agreement, or other decision not to proceed with charges.

(b) Any final action that affects the status of a person's state board approval shall be taken by the superintendent of public instruction.

(c) The superintendent of public instruction after a hearing shall not take action against a person's state board approval under subsection (1) or (2) unless the superintendent of public instruction finds that the conviction is reasonably and adversely related to the person's present fitness to serve in an elementary or secondary school in this state or that the conviction demonstrates that the person is unfit to teach in an elementary or secondary school in this state. Further, the superintendent of public instruction may take action against a person's state board approval under subsection (1) or (2) based on a conviction that occurred before April 1, 2004 if the superintendent of public instruction finds that the conviction is reasonably and adversely related to the person's present fitness to serve in an elementary or secondary school in this state. For the purposes of this section, conviction of a listed offense is reasonably and adversely related to the person's fitness to serve in an elementary or secondary school in this state and demonstrates that the person is unfit to teach in an elementary or secondary school in this state.

(4) If a person who has entered a plea of guilt or no contest to or who is the subject of a finding of guilt by a judge or jury of a crime listed in subsection (2) has been suspended from active performance of duty by a public school, school district, intermediate school district, or nonpublic school during the pendency of proceedings under this section, the public school, school district, intermediate school district, or nonpublic school employing the person shall discontinue the person's compensation until the superintendent of public instruction has made a final determination of whether or not to suspend or revoke the person's state board approval. If the superintendent of public instruction does not suspend or revoke the person's state board approval, the public school, school district, intermediate school district, or nonpublic school shall make the person whole for lost compensation, without interest. However, if a collective bargaining agreement is in effect as of January 1, 2006 for employees of a school district, intermediate school district, or public school academy, and if the terms of that collective bargaining agreement are inconsistent with this subsection, then this subsection does not apply to that school district, intermediate school district, or public school academy until after the expiration of that collective bargaining agreement.

(5) Except as otherwise provided in this subsection, after the completion of the person's sentence, the person may request a hearing on reinstatement of his or her state board approval. Based upon the issues and evidence presented at the hearing, the superintendent of public instruction may reinstate, continue the suspension of, or permanently revoke the person's state board approval. The superintendent of public instruction shall not reinstate a person's state board approval unless the superintendent of public instruction finds that the person is currently fit to serve in an elementary or secondary school in this state and that

reinstatement of the person's state board approval will not adversely affect the health, safety, and welfare of pupils. If a person's conviction was for a listed offense, the person is not entitled to request a hearing on reinstatement under this subsection, and the superintendent of public instruction shall not reinstate the person's state board approval under this subsection.

(6) All of the following apply to a person described in this section whose conviction is reversed upon final appeal:

(a) The person's state board approval shall be reinstated upon his or her notification to the superintendent of public instruction of the reversal.

(b) If the suspension of the state board approval was the sole cause of his or her discharge from employment, the person shall be reinstated upon his or her notification to the appropriate local or intermediate school board of the reversal, with full rights and benefits, to the position he or she would have had if he or she had been continuously employed.

(c) If the person's compensation was discontinued under subsection (4), the public school, school district, intermediate school district, or nonpublic school shall make the person whole for lost compensation.

(7) If the prosecuting attorney in charge of a case receives a form as provided under section 1230d, the prosecuting attorney shall notify the superintendent of public instruction, and any public school, school district, intermediate school district, or nonpublic school in which the person is employed by forwarding a copy of the form to each of them not later than 7 days after receiving the form. If the court receives a form as provided under section 1230d, the court shall notify the superintendent of public instruction and any public school, school district, intermediate school district, or nonpublic school in which the person is employed by forwarding to each of them a copy of the form and information regarding the sentence imposed on the person not later than 7 days after the date of the sentencing, even if the court is maintaining the file as a nonpublic record.

(8) Not later than 7 days after receiving notification from the prosecuting attorney or the court under subsection (7) or learning through an authoritative source that a person who holds state board approval has been convicted of a crime listed in subsection (1), the superintendent of public instruction shall request the court to provide a certified copy of the judgment of conviction and sentence or other document regarding the disposition of the case to the superintendent of public instruction and shall pay any fees required by the court. The court shall provide this certified copy within 7 days after receiving the request and fees under this section or after entry of the judgment or other document, whichever is later, even if the court is maintaining the judgment or other document as a nonpublic record.

(9) If the superintendent of a school district or intermediate school district, the chief administrative officer of a nonpublic school, the president of the board of a school district or intermediate school district, or the president of the governing board of a nonpublic school is notified or learns through an authoritative source that a person who holds state board approval and who is employed by the school district, intermediate school district, or nonpublic school has been convicted of a crime described in subsection (1) or (2), the superintendent, chief administrative officer, or board president shall notify the superintendent of public instruction of that conviction within 15 days after learning of the conviction.

(10) For the purposes of this section, a certified copy of the judgment of conviction and sentence is conclusive evidence of conviction of a crime described in this section. For the purposes of this section, conviction of a crime described in this section is considered to be reasonably and adversely related to the ability of the person to serve in an elementary or secondary school and is sufficient grounds for suspension or revocation of the person's state board approval.

(11) For any hearing under subsection (1), if the superintendent of public instruction does not make a final decision and order within 120 working days after receiving the request for the hearing, as required under subsection (1), the superintendent of public instruction shall submit a report detailing the reasons for the delay to the standing committees and appropriations subcommittees of the senate and house of representatives that have jurisdiction over education and education appropriations. The failure of the superintendent of public instruction to make a final decision and order within this 120 working day time limit, or the failure of any other official or agency to meet a time limit prescribed in this section, does not affect the validity of an action taken under this section affecting a person's state board approval.

(12) Beginning July 1, 2004, the superintendent of public instruction shall submit to the legislature a quarterly report of all final actions he or she has taken under this section affecting a person's state board approval during the preceding quarter. The report shall contain at least all of the following with respect to each person whose state board approval has been affected:

(a) The person's name, as it appears on the state board approval.

(b) The school district, intermediate school district, public school academy, or nonpublic school in which the person was employed at the time of the conviction, if any.

(c) The offense for which the person was convicted and the date of the offense and date of the conviction.

(d) Whether the action taken by the superintendent of public instruction was a summary suspension, suspension due to failure to request a hearing, suspension, revocation, or reinstatement of the state board approval.

(13) This section does not do any of the following:

(a) Prohibit a person who holds state board approval from seeking monetary compensation from a school board or intermediate school board if that right is available under a collective bargaining agreement or another statute.

(b) Limit the rights and powers granted to a school district or intermediate school district under a collective bargaining agreement, this act, or another statute to discipline or discharge a person who holds state board approval.

(c) Exempt a person who holds state board approval from the operation of section 1535a if the person holds a certificate subject to that section.

(d) Limit the ability of a state licensing body to take action against a person's license or registration for the same conviction.

(14) The superintendent of public instruction may promulgate, as necessary, rules to implement this section pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(15) The department of information technology shall work with the department and the department of state police to develop and implement an automated program that does a comparison of the department's list of individuals holding a teaching certificate or state board approval, and of any other list maintained by the department of individuals employed or regularly and continuously working under contract in a school, with the conviction information received by the department of state police. This comparison shall only include individuals who are actually school employees at the time of the comparison or who are regularly and continuously working under contract at the time of the comparison. Unless otherwise prohibited by law, this comparison shall include convictions contained in a nonpublic record. The department and the department of state police shall perform this comparison during January and June of each year until July 1, 2008. The department of state police shall take all reasonable and necessary measures using the available technology to ensure the accuracy of this comparison before transmitting the information under this subsection to the department. The department shall take all reasonable and necessary measures using the available technology to ensure the accuracy of this comparison before notifying a school district, intermediate school district, public school academy, or nonpublic school of a conviction. If a comparison discloses that a person on the department's list of individuals holding a teaching certificate or state board approval has been convicted of a crime, or if the department is otherwise notified by the department of state police that such a person has been convicted of a crime, the department shall notify the superintendent or chief administrator and the board or governing body of the school district, intermediate school district, public school academy, or nonpublic school in which the person is employed of that conviction.

(16) As used in this section:

(a) "Conviction" means a judgment entered by a court upon a plea of guilty, guilty but mentally ill, or nolo contendere or upon a jury verdict or court finding that a defendant is guilty or guilty but mentally ill.

(b) "Felony" means that term as defined in section 1 of chapter I of the code of criminal procedure, 1927 PA 175, MCL 761.1.

(c) "Listed offense" means that term as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

(d) "Prosecuting attorney" means the prosecuting attorney for a county, an assistant prosecuting attorney for a county, the attorney general, the deputy attorney general, an assistant attorney general, a special prosecuting attorney, or, in connection with the prosecution of an ordinance violation, an attorney for the political subdivision that enacted the ordinance upon which the violation is based.

(e) "Regularly and continuously work under contract" means that term as defined in section 1230d.

(f) "State board approval" means a license, certificate, approval not requiring a teaching certificate, or other evidence of qualifications to hold a particular position in a school district or intermediate school district or in a nonpublic school, other than a teacher's certificate subject to section 1535a, that is issued to a person by the state board or the superintendent of public instruction under this act or a rule promulgated under this act.

History: Add. 1992, Act 99, Imd. Eff. June 23, 1992;—Am. 1994, Act 144, Imd. Eff. June 2, 1994;—Am. 1995, Act 97, Imd. Eff. June 22, 1995;—Am. 1995, Act 289, Eff. July 1, 1996;—Am. 2004, Act 51, Imd. Eff. Apr. 1, 2004;—Am. 2005, Act 130, Eff. Jan. 1, 2006;—Am. 2006, Act 84, Imd. Eff. Mar. 31, 2006;—Am. 2006, Act 680, Imd. Eff. Jan. 10, 2007.

Popular name: Act 451